

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>TZVIA WEXLER,</b>	:	
<b>Plaintiff</b>	:	
	:	<b>CIVIL ACTION</b>
<b>v.</b>	:	
	:	<b>No. 19-CV-5760-CMR</b>
<b>CHARMAINE HAWKINS, et al.,</b>	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2024, upon consideration of Plaintiff's Petition for Attorney's Fees, and any response thereto, and for good cause show, it is hereby **ORDERED** that Plaintiff's Petition is **GRANTED**. Defendants shall pay Plaintiff's costs and fees in the amount of \_\_\_\_\_.

BY THE COURT:

\_\_\_\_\_  
Cynthia M. Rufe  
U.S. District Judge

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<b>Defendants</b>	:	

**PLAINTIFF’S PETITION FOR ATTORNEY’S FEES**

Plaintiff Tzvia Wexler, by and through her attorney, Thomas Malone, Esq., hereby petitions the Court for an award of costs and attorney’s fees incurred in this action.

1. Ms. Wexler commenced this action pursuant to 42 U.S.C. § 1983 on December 6, 2019. The parties engaged in pretrial discovery, including document discovery and seven depositions. Plaintiff’s counsel engaged in extensive other informal discovery and investigation, including meetings with witnesses and potential witnesses, both in the years prior to trial and shortly before trial. The Plaintiff engaged in efforts to resolve the matter prior to trial, but no resolution was possible; the defendants never made good faith settlement offers, despite agreeing to two settlement conferences.

2. Trial was originally scheduled for August 23, 2023. Plaintiff’s counsel engaged in extensive preparation in the days and weeks leading up to that date, and again during the actual trial, which commenced on January 16, 2024 and concluded on January 24, 2024. There were several motions in limine and other matters that took up time and expense. In the days leading up to the January trial date, defense counsel belatedly turned over Body-Worn Camera (BWC) footage not disclosed during discovery that proved essential to Plaintiff’s case. Reviewing the over four hours of footage, contracting out a transcription of the video, and preparing the selections of the

footage for use at trial were onerous, unexpected tasks that greatly complicated Plaintiff's preparations for trial.

3. Of the original defendants named in Ms. Wexler's Complaint, all claims against the City of Philadelphia were dismissed upon Defendants' Motion on February 19, 2020; Ms. Wexler did not contest, and her attorney did not expend time in contesting, that motion.

4. All claims against Corporal Kelly Keenan were dismissed by stipulation of the parties shortly before trial on December 28, 2023. Plaintiff's claim of False Light was dismissed against all Defendants by stipulation of the parties on that same date. Plaintiff agreed to the dismissal in the latter circumstance because the False Light claim had proven peripheral to her case, and as such little-to-no time had been expended in its pursuit. In the former, though Plaintiff ultimately decided not to contest her liability, all time spent in preparation regarding Cpl. Keenan was in any case requisite, as she was on the Defendants' witness list.

5. On January 24, 2024, the jury returned a verdict in Ms. Wexler's favor and against all remaining defendants in the amount of \$6,000 in compensatory damages, plus an additional \$1,000,000 in punitive damages against remaining defendants, James Koenig and Charmaine Hawkins. Ms. Wexler is the prevailing party in this litigation, and she and her attorney now move for an award of costs and attorney's fees pursuant to 42 U.S.C. §1988.

6. Ms. Wexler's attorney Thomas Malone, Esq. spent 385.25 hours at \$725 per hour on this case, for a total of \$279,306.25. Mr. Malone's paralegal, Chris McNerney, spent 123.5 hours at \$125 per hour on this case, for a total of \$15,437.50. Ms. Wexler's attorney's lodestar for the underlying litigation is thus \$294,734.75. In addition, Ms. Wexler and her attorneys incurred \$8941.47 in costs and expenses in this litigation. Mr. Malone also spent 14 hours at the above rate

in preparation of this Petition, for an additional \$10,150. The total costs and fees to date incurred is \$313,835.22.

7. Plaintiff anticipates further time and expense in this matter in the form of replies to any response to this Petition, as well as Plaintiff's own responses to Defendants' post-trial motions.

WHEREFORE, Plaintiff petitions that this Court order the Defendants to pay her costs and attorney's fees in the sum of \$313,835.22.

Date: February 16, 2024

Respectfully submitted,

/s/ Thomas Malone

Thomas Malone, Esq.

Attorney ID No. 77291

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**CERTIFICATE OF SERVICE**

I hereby certify that on the below date, Plaintiff's Petition for Attorney's Fees, Memorandum in support of Plaintiff's Petition, and Thomas Malone Esq.'s Declaration in Support of Plaintiff's Petition, were served upon all parties via the Court's electronic filing system.

Date: February 16, 2024

Respectfully submitted,

/s/ Thomas Malone  
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